

CA

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

RANDY MARCELLO COOK,)	
)	
Plaintiff,)	
)	
v.)	No. 08 C 4085
)	
C. DOWNS,)	
)	
Defendant.)	

MEMORANDUM ORDER

Randy Marcello Cook ("Cook") has tendered a Complaint against correctional officer C. Downs, complaining of Downs' assertedly gratuitous action in having sprayed Cook with mace while Cook was on a bus transferring him between correctional institutions. Cook has accompanied the Complaint (in which he has used the form supplied by this District Court's Clerk's Office, with the relevant information as to his claim supplied via handprinting) with two other forms also provided by the Clerk's Office: an In Forma Pauperis Application ("Application") and a Motion for Appointment of Counsel ("Motion").

But what Cook's submissions do not disclose is that "Randy Marcello Cook" is shown by records maintained by this District Court's Staff Attorney Office to be Leroy Marcello Nash, who has previously accumulated more than three "strikes" under 28 U.S.C. §1915(g): in Case No. 93-2117 in the Central District of Illinois (dismissed Sept. 17, 1996) and three cases in this District Court--01 C 1705, Cook v. Hossy and 01 C 1751, Cook v.

Godwin (both dismissed Apr. 10, 2001) and 02 C 2874, Cook v. Brick (dismissed Apr. 24, 2002). And that being the case, the Application must be and is denied. Accordingly, unless Cook-Nash pays the \$350 filing fee on or before August 22, 2008, both the Complaint and this action will be dismissed for nonpayment of that required filing fee.¹



Milton I. Shadur
Senior United States District Judge

Date: July 22, 2008

¹ This ruling moots the additional deficiency in the Application represented by Cook's failure to have tendered a printout of his trust fund account for the six-month period preceding the filing of the Complaint (see 28 U.S.C. §1915(a)(2)), as to which Cook incorrectly states that a court order is required to obtain such a printout. It also makes it unnecessary to address other deficiencies in the current filings:

1. So far as the current filings are concerned, Cook has failed to satisfy the precondition to any prisoner lawsuit that "such administrative remedies as are available are exhausted" (42 U.S.C. §1997e(a)).

2. As for the Motion, which is of course denied as moot, it omits the most relevant ingredient--a representation as to Cook's efforts made to retain counsel before seeking to enlist appointed counsel.